

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

|                            |   |           |
|----------------------------|---|-----------|
| RICHARD D. SMITH,          | ) |           |
|                            | ) |           |
| Plaintiff,                 | ) |           |
|                            | ) |           |
| v.                         | ) | 1:20CV750 |
|                            | ) |           |
| OFFICER D. LANIER, et al., | ) |           |
|                            | ) |           |
| Defendants.                | ) |           |

**ORDER**

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on December 29, 2022, was served on the parties in this action. (ECF Nos. 42, 43.) No objections were filed within the time prescribed by §636.

The Court hereby adopts the Magistrate Judge's Recommendation.

**IT IS THEREFORE ORDERED** that Defendants Officers D. Lanier and Jennings' Motion to Dismiss, (ECF No. 31), is **DENIED**.

This, the 25<sup>th</sup> day of January 2023.

/s/ Loretta C. Biggs  
United States District Judge